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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

ROSA ROJAS, as heir to and representative of )	CASE NO.: 18-CV-01779-WHO
the ESTATE OF MAURILLO ROJAS; )	
JESSICA ROJAS, as surviving child of )	<b>DECLARATION OF YOUNG W. CHOI,</b>
MAURILLO ROJAS; RICARD ROJAS, as )	<b>ESQ. IN SUPPORT OF STATE</b>
surviving child of MAURILLO ROJAS; and )	<b>COMPENSATION INSURANCE FUND'S</b>
OSVALDO ROJAS, surviving child of )	<b>MOTION TO INTERVENE</b>
MAURILLO ROJAS, )	
)	
Plaintiffs, )	Date: April 10, 2019
)	Time: 2:00 p.m.
v. )	Dept.: 2, 17 <sup>th</sup> Floor
)	U.S. Dist. Northern Dist.
HAMM; WIRGEN AMERICA, INC.; )	450 Golden Gate Avenue
SUNBELT RENTALS, INC.; ESQUIVEL )	San Francisco, CA 94102
GRADING & PAVING, INC.; and DOES 1- )	
100, and each of them, )	
)	
)	
Defendants, )	
)	
)	
)	
)	

**DECLARATION**

I, Young W. Choi, declare:

1. I have personal knowledge of all facts set forth herein, except as to those matters

1       alleged herein upon information and belief and as to such matters I believe them  
2       to be true; if called upon, I could and would competently testify to all facts set  
3       forth herein to which I have personal knowledge.

4       2. I am informed and believes and thereon allege the following:

5       (a) State Fund is a non-profit public entity fund of the State of California. It is the  
6       workers' compensation insurer for LC General Engineering & Construction,  
7       Inc. ("LC General").

8       (b) The injury to Maurillo Rojas underlying this action occurred on January 28,  
9       2016 and such injury, and his eventual death, arose out of and in the course of  
10      his employment with LC General.

11      (c) The subject injury resulted in multiple state actions. This present action, a  
12      serious and willful petition against LC General in the Workers' Compensation  
13      Appeals Board, and criminal complaints against the president, foreman, and  
14      construction manager of LC General. All actions remain pending and  
15      unresolved.

16      (d) This action was originally filed by plaintiffs Rosa Rojas, et al. in the Superior  
17      Court of California on December 12, 2017. On or around March 22, 2018, the  
18      action was removed to this court. State Fund did not receive notice of the  
19      removal.

20      (e) On December 05, 2018, merits discovery was stayed in this action. This court  
21      ordered a stay because of the ongoing criminal investigation. The court's  
22      order specifies that a number of fact witnesses were facing criminal  
23      indictment as a result of the underlying injury and their Fifth Amendment  
24      privileges might interfere with regular discovery.

25      3. On or around August 06, 2018, State Fund received a letter from defendant  
26      Wirtgen's counsel stating that if State Fund did not intervene, defendant would  
27      presume that State Fund had decided to waive its rights. On or around October 16,  
28      2018, counsel for State Fund and Wirtgen discussed the matter. At that time, State

1 Fund notified counsel for Wirtgen that it was not waiving any rights and that it  
2 intended to intervene. During the conversation, counsel discussed the pending  
3 criminal action(s) and the likely delay that such would present for discovery in  
4 this proceeding.

- 5 4. After receiving the letter of August 06, 2018 from Wirtgen's counsel, State Fund  
6 began assessing intervention. State Fund did not seek immediate intervention as it  
7 wanted to conduct further investigation prior to seeking leave. However, like the  
8 parties in this action, State Fund's investigation stalled due in part to the pending  
9 criminal actions. Moreover, State Fund did not previously intervene given the  
10 anticipated delays in discovery due to the aforementioned criminal actions and the  
11 eventual stay of merits discovery in this case.
- 12 5. This declaration was executed on the date specified below and in Pleasanton, CA,  
13 USA.

14  
15 I declare under penalty of perjury under the laws of the United States of America  
16 that the foregoing is true and correct.

17  
18 Dated: 3/6/2019

/s/ Young W. Choi  
Young W. Choi